



treatment was unnecessary and that appellant had no residuals or disability from the chest wall contusion. He further concluded that appellant's multiple injuries since the June 15, 2015 injury were unrelated to her chest wall contusion.

By decision dated December 21, 2017, OWCP denied a requested medical procedure.<sup>2</sup> The decision provided in full: "Your request for a medical treatment under this claim is denied on the grounds based on the Second Opinion report of [November 20, 2017]. No further consideration in relation to the requested procedures will be given. **Further medical treatment related to conditions accepted as work related, is not authorized and prior authorization, if any, is terminated.**" (Emphasis in the original.) The decision purported to provide appeal rights.

The Board finds that this case is not in posture for decision. Although OWCP effectively terminated appellant's medical benefits when it issued its December 21, 2017 denial of authorization for medical treatment, the record does not contain a preliminary notice of a proposal to terminate medical compensation.<sup>3</sup>

The Board has held that compensation benefits constitute a property interest protected by the due process clause. Reduction of benefits prior to the issuance of a pretermination notice defeats the purpose of OWCP procedures that provide for notice before reduction of benefits.<sup>4</sup> OWCP procedures provide that notice is required prior to termination in all cases where benefits are being paid on the periodic rolls and in the case of termination of medical benefits.<sup>5</sup> The procedures indicate that a notice is required if medical benefits are terminated based upon the opinion of a second opinion or referee examiner, as opposed to the treating physician.<sup>6</sup> The Board has held that OWCP must follow its procedures and provide notice and an opportunity to respond prior to the termination of compensation benefits.<sup>7</sup>

In light of the fact that appellant's request for authorization for medical treatment was denied and OWCP terminated appellant's medical benefits related to accepted work-related conditions based on the opinion of a second opinion examiner, the burden remains on OWCP to properly terminate appellant's compensation benefits.<sup>8</sup> Without a proper notice of a proposal to terminate compensation in the record, OWCP improperly terminated appellant's medical compensation.

The case must be returned to OWCP for proper notification of appellant's medical benefits status. Following this and any other further development deemed necessary, OWCP shall issue an

---

<sup>2</sup> The procedure was not identified.

<sup>3</sup> OWCP's Federal (FECA) Procedure Manual specifies procedural requirements for termination of compensation benefits, including issuance of a pretermination notice. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.4b(3) (February 2013).

<sup>4</sup> See *Felix Voyles*, 46 ECAB 895 (1995).

<sup>5</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances, Pretermination Notices*, Chapter 2.1400.4b (February 2013); see also *Winton A. Miller*, 52 ECAB 405 (2001).

<sup>6</sup> *Id.* at Chapter 2.1440.4.b(2) (February 2013).

<sup>7</sup> *K.S.*, Docket No. 11-2021 (issued August 21, 2012).

<sup>8</sup> *Elaine Sneed*, 56 ECAB 373 (2005); *Gloria J. Godfrey*, 52 ECAB 486 (2001).

appropriate decision, including findings of facts and a statement of reasons, regarding appellant's medical benefits.

**IT IS HEREBY ORDERED THAT** the December 21, 2017 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further action in accordance with this order of the Board.

Issued: March 7, 2019  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board